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BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **JUDITH ANN DAVIS** **Address of Record:** **560 Hansen Ave. S** **Salem, OR 97302** **Additional Address:** **3497 Robert Ave., NE** **Salem, OR 97301** **Registered Nurse License No. 215139** **Public Health Nurse Certificate No. 55504** Respondent.	Case No. 2013-545 **A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.

2. On or about June 30, 1971, the Board of Registered Nursing ("Board") issued Registered Nurse License Number 215139 to Judith Ann Davis ("Respondent"). The Registered Nurse License expired on September 30, 2002, and has not been renewed.

3. On or about April 24, 1996, the Board issued Public Health Certification Number 55504 to Respondent. The Public Health Certificate expired on September 30, 2002, and has not been renewed.

JURISDICTION

4. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Section 2811(b) of the Code provides, in pertinent part, that the Board may renew an expired license at any time within eight years after the expiration.

7. Section 118, subdivision (b) grants the Board jurisdiction over suspended, expired, forfeited, cancelled, or surrendered licenses:

> "The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground."

8. Title 16, section 1419.3 of the California Code of Regulations defines the period in which a license may be renewed or reinstated:

> "In the event a licensee does not renew his/her license as provided in Section 2811 of the code, the license expires. A licensee renewing pursuant to this section shall furnish a full set of fingerprints as required by and set out in section 1419(b) as a condition of renewal.
>
> (a) A licensee may renew a license that has not been expired for more than eight years by paying the renewal and penalty fees as specified in Section 1417 and providing evidence of 30 hours of continuing education taken within the prior two-year period.

(b) A licensee may renew a license that has been expired for more than eight years by paying the renewal and penalty fees specified in Section 1417 and providing evidence that he or she holds a current valid active and clear registered nurse license in another state, a United States territory, or Canada, or by passing the Board's current examination for licensure."

STATUTES

9. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

. . . .

"(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action."

COST RECOVERY

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

CAUSE FOR DISCIPLINE

(Discipline by the Oregon Board of Nursing)

11. Respondent is subject to disciplinary action under Code section 2761, subdivision (a)(4) on the grounds of unprofessional conduct because her Oregon registered nursing license was disciplined as follows:

12. On or about April 23, 2009, in a case entitled *In the Matter of Judith Ann Davis, RN, No 200242598RN*, Case No. 09-125, the Oregon State Board of Nursing ("Oregon Board") issued

a Final Order which adopted a Stipulation for 60-Day Suspension with Conditions, thereby suspending Respondent's registered nursing license for 60 days. In the Stipulation, Respondent admitted to the following facts:

(a) Respondent became employed by Catholic Community Services as a registered nurse on February 11, 2008. Her duties included planning, supervising, and implementing nursing services for people with developmental disabilities. Respondent was the primary nurse for one home with five residents and provided nursing supervision for a second home that had licensed practical nurses on duty.

(b) On August 14, 2008, the Department of Human Services ("DHS") conducted a site survey. DHS concluded that Respondent failed to implement physician's orders for resident CG when she failed to administer a physician ordered ear irrigation medication. From February 13, 2008 through July 7, 2008, CG experienced periodic dehydration and evaluated temperatures. On seven occasions, when CG experienced changes in physical condition, Respondent failed to document a nursing assessment of CG and failed to document modifications of the nursing care plan.

(c) DHS concluded that Respondent failed to document and complete a nursing assessment and care plan for resident JR. From February 11, 2008 through August 1, 2008, Respondent provided nursing oversight for JR. Respondent did not conduct an initial nursing assessment on February 11, 2008. JR experienced increased redness and irritation to his stoma and lost weight. On July 24, 2008, direct care staff noted a problem with the stoma. Respondent failed to document a nursing assessment and failed to modify the nursing care plan or modify the delegation instructions for JR's stoma care to reflect the nursing care JR was to be given.

(d) Resident LB experienced a painful left knee. Respondent failed to document that she conducted a nursing assessment or that she responded to direct care staff's requests for Respondent to evaluate LB. On July 31, 2008, it was determined that LB had a fracture of her upper left tibia. Respondent failed to document a nursing assessment or change LB's nursing care plan to reflect new nursing care needs.

(e) On March 10, 2008, Respondent changed the delegated task for G-Tube Feeding and Medications for LB to an assigned task. There is no provision in the Oregon Nurse Practice Act to change a delegated task of nursing to an assignment.

(f) On April 16, 2008, direct care staff wrote that resident CR had a significant elevation in her temperature and discolored mucus. Respondent failed to document that she conducted a physical assessment of CR. On April 30, 2008, CR's temperature spiked, was taken to the hospital, diagnosed with possible pneumonia, and placed on antibiotics. Direct care staff noted that Respondent was made aware of the situation but Respondent failed to document that she conducted a nursing assessment when CR returned to the home.

(g) From June 9, 2008 through July 24, 2008, direct care staff left messages for Respondent that patient AS had a red, painful, draining stoma. Respondent failed to document that she responded to these messages or conducted a nursing assessment. Respondent failed to modify the nursing care plan or the delegation instructions for AS's stoma care.

(h) On January 2, 2008, Respondent documented that she reviewed the previous nursing delegation's specific step by step outline of how a task of nursing is to be performed for patients living at the home. However Respondent was not employed on January 2, 2008.

(i) Respondent acknowledged that she was not educationally prepared or clinically competent to delegate specific tasks of nursing care to unlicensed persons. Respondent failed to provide timely initial assessment and direction to unlicensed caregivers. Respondent failed to change and/or update the nurse delegation when the condition of a resident changed and required a change in procedure. Respondent failed to rescind or transfer the nurse delegations when her employment ended.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 215139, issued to Judith Ann Davis;

2. Revoking or suspending Public Health Certificate Number 55504, issued to Judith Ann Davis;

3. Ordering Judith Ann Davis to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

4. Taking such other and further action as deemed necessary and proper.

DATED: January 8, 2013

for LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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